

REMARKS

Claims 51-57 are pending in the subject application, of which claims 51-57 are independent. Claims 1-50 are canceled. Favorable reconsideration and further examination are respectfully requested.

Oath/Declaration

The Examiner requested the applicants to submit a supplemental declaration with an updated "no deceptive intent" clause for the changes made subsequent to the previous declaration filed on June 3, 2002. We are submitting herewith a reissue declaration by the inventor signed by inventor O'Connor. Furthermore, in lieu of a signed reissue declaration by the inventor signed by inventor Merriman, we are also submitting a petition under 37 C.F.R. 1.47(a) and a statement of facts as proof that the non signing inventor (inventor Merriman) cannot be found or reached after diligent effort.

Objections to the specification

The Examiner suggested that we submit an abstract of the disclosure, despite the fact that we had previously submitted an abstract to the Examiner to be entered by Examiner's amendment. In this regard, the Office Action states:

Specification

3. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). Applicant's representative had previously sent an abstract to the Examiner to be entered by Examiner's amendment but since this case is not in condition for allowance, Applicant may want to officially send an abstract of the disclosure in response to this Office action. An abstract on a separate sheet is required.

As we have provided an abstract of the disclosure in this Amendment, we respectfully request that the objection to the specification be withdrawn.

Double Patenting

The current Office Action noted a double patenting rejection provided in an Office Action mailed on October 24, 2001. Without conceding the appropriateness of the rejection, we are submitting a terminal disclaimer that addresses the double patenting rejection provided in the Office Action mailed on October 24, 2001. Accordingly, we respectfully request that the double patenting rejection be withdrawn.

Allowable subject matter

As noted by the current Office Action, the Board of Patent Appeals and Interferences affirmed the Examiner on claims 1-50, and reversed the Examiner on claims 51-57. Thus, claims 51-57 stand allowed. We have canceled claims 1-50 in this Amendment. Accordingly, we respectfully submit that this application is in condition for allowance, which action is requested at the Examiner's earliest convenience.

¹ Office Action, page 2.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 16113-1341RE9.

Respectfully submitted,

Date: December 23, 2011

/Nicholas A. Bero/
Nicholas A. Bero
Reg. No. 67,946

Customer Number 26192
Fish & Richardson P.C.
Telephone: (617) 542-5070
Facsimile: (877) 769-7945